

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE  
Public Health Service  
Health Services Administration  
Indian Health Service  
Rockville, Maryland

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INDIAN HEALTH SERVICE CIRCULAR NO. 76-8

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PAYMENT FOR DRUGS

Sec.

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1. INTRODUCTION.

The Department published a regulation in the Federal Register on July 31, 1975, and the Public Health Service published a similar regulation in the Federal Register on August 15, 1975, which establishes a policy on the amounts to be paid for drugs by the Agencies of the Public Health Service. Medicaid (SRS) and Medicare (SSA) have similar regulations.

The regulation applies to all programs - contract, grant, direct in which Federal funds are used to pay in part or in whole for drugs from pharmacists, physicians, hospitals, nursing homes, wholesalers or manufacturers. .

For drug products that are available from one source only the Department will furnish cost data to be used in arriving At or estimating, an acquisition cost. These data will be used to establish acquisition costs for drugs. Most states have had acquisition costs in their Medicaid programs, and the Department data will assist the States in keeping the prices current. Since the States already have a mechanism for developing acquisition costs, the programs may wish to obtain acquisition costs for drugs from the State Medicaid programs instead of developing their own acquisition costs. It is strongly recommended that the State acquisition costs be utilized.

2. POLICY.

It is the policy of the Secretary that program funds which are utilized for the acquisition of drugs be expended in the most economical manner feasible.

The maximum amount which may be expended from program funds for the acquisition of any drug shall be the lowest of:

- A. The Maximum Allowable Cost (MAC) of a drug available from more than one manufacturer as established by the Department. plus a reasonable dispensing fee;
- B. The Estimated Acquisition Cost (EAC) of the drug plus a reasonable dispensing fee; or
- c. The Provider's usual and customary charge to the public for the drug.

An exception to the Maximum Allowable Cost will be made when the physician states in writing that a drug made by a particular manufacturer is medically necessary for that patient.

When compensation for pharmacy services is included in some other amount payable to the provider as in a hospital, no separate dispensing fee will be recognized.

The lower of MAC or EAC will apply for direct purchases.

The above policy applies to contracts, grants, and direct patient care programs when Federal funds are used to pay for all or a part of the cost of drugs.

3. IMPLEMENTATION GUIDELINES.

- A. Each program will advise its contractors, grantees, purchasing officials, and other personnel concerned of the policy and see that they have current MAC and EAC price lists.
- B. The policy shall be included as a condition of each contract or grant involving the prescribing or dispensing of drugs.
- c. Each program will review the amount paid for drugs to ensure compliance with the policy.
- D. Each program should utilize the estimated acquisition cost for drugs established by the State in which the vendor or facility purchasing drugs is located instead of attempting to establish its own acquisition cost.
- E. In some States the professional fee paid to pharmacists under Medicaid is considered inadequate. It is therefore recommended that the programs negotiate the professional fee with each pharmacist when a contract or agreement is signed.

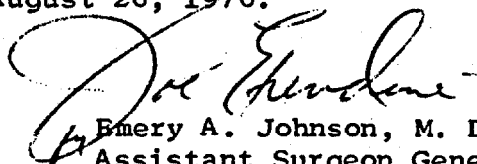
4. PROGRAM IMPLEMENTATION.

Each Area will develop procedures for implementing and reviewing their programs for adherence to the policy-and forward a copy to Chief, Pharmacy Branch, IHS. The auditing procedure may be by computer, random sampling technique of charges and payments, or another accepted auditing practice.

The audit will include a review of the exceptions requested by physicians to ensure that requests for such exceptions are in the prescribing physician's handwriting.

5. EFFECTIVE DATE.

This policy is **effective August 26, 1976.**

A handwritten signature in dark ink, appearing to read "Emery A. Johnson", is written over the typed name and title.

Emery A. Johnson, M. D.

Assistant Surgeon General

Director, Indian Health Service